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8 **UNITED STATES DISTRICT COURT**

9 **DISTRICT OF NEVADA**

10 ELLEN REEVES, individually,

11 Plaintiff,  
12 vs.

13 DISCOVER YOUR MOBILITY, INC., a  
14 foreign corporation; SOLO WORLD  
15 PARTNERS, LLC., a foreign corporation;  
16 DOE EMPLOYEES I-V, individually; DOE  
17 MANAGERS I-V, individually; ROE  
18 MANUFACTURERS I-X; ROE  
INSPECTION COMPANIES I-V; ROE  
DISTRIBUTORS I-X; DOE INDIVIDUALS  
I-X; and ROE BUSINESS ENTITIES I-X,  
inclusive,

19 Defendants.

CASE NO: 2:22-CV-01361-GMN-DJA

**STIPULATION**

**~~JOINT MOTION TO REOPEN~~**  
**DISCOVERY**

(THIRD REQUEST FOR EXTENSION)

20 Plaintiff ELLEN REEVES, by and through her counsel of record ADAM ELLIS, ESQ.;  
21 DISCOVERY YOUR MOBILITY, INC., by and through its counsel of record ADAM KNECHT,  
22 ESQ., and SOLO WORLD PARTNERS, LLC, by and through its counsel of record JOHN  
23 KRIEGER, ESQ., jointly move to reopen the discovery period for one-hundred twenty (120)  
24 days.

## **DECLARATION**

I, Adam Ellis, declare as follows:

1. I am a partner at MAINOR ELLIS, LLP, attorneys of record for Plaintiff ELLEN REEVES. I am competent to and will testify to the following facts if called to do so.

2. I make this Declaration in support of the parties' JOINT MOTION TO REOPEN DISCOVERY.

3. On January 23, 2024, the Court entered an Order [25] permitting Plaintiff to file an Amended Complaint, adding Defendant SOLO WORLD PARTNERS, LLC (“Solo World”) as a party.

4. Plaintiff's counsel effectuated service on Solo World on February 14, 2024. On March 8, 2024 the Court approved the parties' Joint Stipulation and Order for Extension of Time for Defendant Solo World, LLC to Respond to Complaint [33].

5. Defendant Solo World, LLC filed its Answer to First Amended Complaint [35] on March 22, 2024.

6. At that time, discovery was set to close the next day, on March 23, 2024, with dispositive motions due April 22, 2024.

7. After Solo World appeared, Plaintiff and Defendant Discover Your Mobility, Inc. began having preliminary settlement discussions, which were complicated by certain issues in the case including lack of insurance coverage.

8. The parties held a 26(f) conference on May 7, 2024, discussing the discovery remaining to be completed by all parties, including newly added Solo World.

9. The parties agreed additional discovery was necessary due to Solo World's recent appearance in the case, and that they believed all could be accomplished in one-hundred twenty days. The parties also discussed the possibility of resolution, and agreed it would be best explored after Solo World had conducted some discovery.

10. Good cause exists to reopen discovery to allow Solo World to conduct discovery, as it became a party close to the conclusion of the original discovery period. Additionally, good

1 cause exists to facilitate any remaining discovery Plaintiff and Defendant Discovery Your  
2 Mobility, Inc. seek to complete.

3       11. Excusable neglect exists for the failure to move to reopen discovery prior to 21  
4 days before the discovery deadline because Solo World did not become a party until the day  
5 before the original discovery period had passed. Additionally, excusable neglect exists for the  
6 delay between Solo World's appearance and this Motion because Plaintiff and Defendant  
7 Discovery Your Mobility, Inc. had been exploring the potential for reaching global resolution,  
8 which would have eliminated the need to conduct any further discovery.

9       12. Accordingly, the parties respectfully request the Court enter an Order Reopening  
10 Discovery for a period of one-hundred twenty (120) days and continuing all other deadlines  
11 accordingly.

12       13. The parties are also submitting a Discovery Plan and Proposed Scheduling Order  
13 in compliance with FRCP 26(f), as Defendant Solo World recently appeared. The parties'  
14 proposed discovery schedule is the same in both documents.

15       14. I declare under the penalty of perjury that the foregoing is true and correct.

16              Dated: May 31, 2024

17              Signed: /s/ Adam Ellis

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# **MEMORANDUM OF POINTS AND AUTHORITIES**

## I. INTRODUCTION

The parties seek to reopen discovery for one-hundred twenty (120) days. Defendant Solo World Partners, LLC appeared in the case the day before discovery closed, and thus could not complete any discovery. This extension will afford Defendant Solo World ample time to conduct discovery. In addition, reopening discovery will allow the parties additional time to discuss the possibility of resolution before heading to trial.

## II. ARGUMENT

#### **A. Applicable Legal Standards**

A request to reopen discovery must be supported by a showing of good cause and excusable neglect. Local Rule 26-3; Fed. R. Civ. P. 6(b)(1)(B). The good cause analysis turns on whether the subject deadlines cannot reasonably be met despite the exercise of diligence. *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992). The showing of diligence is measured by the movant's conduct throughout the entire period of time already allowed. *CC.Mexicano.US, LLC v. Aero II Aviation, Inc.*, 2015 U.S. Dist. LEXIS 169110, at \*11-12, 2015 WL 10059063 (D. Nev. Dec. 15, 2015).

The excusable neglect “determination is at bottom an equitable one, taking account of all relevant circumstances surrounding the party's omission.” *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship*, 507 U.S. 380, 395 (1993). “Neglect” encompasses “both simple, faultless omissions to act and, more commonly, omissions caused by carelessness.” *Id.* at 388. “[T]he determination of whether neglect is excusable is an equitable one that depends on at least four factors: (1) the danger of prejudice to the opposing party; (2) the length of the delay and its potential impact on the proceedings; (3) the reason for the delay; and (4) whether the movant acted in good faith.” *Bateman v. U.S. Postal Service*, 231 F.3d 1220, 1223-24 (9th Cir. 2000) (citing *Pioneer*, 507 U.S. at 388; and *Briones v. Riviera Hotel & Casino*, 116 F.3d 379, 381-82 (9th Cir. 1997)).

1                   **B. Good Cause Exists to Reopen Discovery**

2 Plaintiff moved to amend her Complaint and add Defendant Solo World Partners, LLC as  
3 a party at the deadline to add parties and amend pleadings. Once her Motion was granted, she  
4 began service of process. Once service was effectuated, Defendant Solo World appeared.  
5 However, since pre-existing deadlines continued running while before Solo World made its  
6 appearance, only one day of discovery remained when Solo World first appeared in the case.  
7 Thus, it did not have any time to complete discovery. Good cause exists to reopen the discovery  
8 deadlines to allow Solo World the opportunity to conduct discovery.

9                   Good cause also exists to allow the parties sufficient time to conduct additional discovery.  
10 Defendant Discover Your Mobility, Inc., had noticed Plaintiff's deposition for the last day of  
11 discovery, March 22, 2024. Due to calendaring error by Plaintiff's counsel, Plaintiff did not  
12 appear for her deposition. Accordingly, good cause exists to reopen discovery to allow the parties  
13 to complete Plaintiff's deposition.

14                   **C. Excusable Neglect Exists for Not Submitting this Motion within 21 Days of the**  
15                   **Close of Discovery**

16                   Shortly after Solo World made its appearance, Defendant Discover Your Mobility  
17 contacted Plaintiff's counsel to discuss whether it was feasible to resolve the case. Given the  
18 unique circumstances of the case, Plaintiff and Defendant Discover Your Mobility focused on  
19 whether a global resolution could be reached. While counsel explored options with their clients,  
20 the other case-related deadlines passed. In early May 2024, the parties held a 26(f) conference for  
21 the purpose of determining the discovery Solo World would need, as well as whether the addition  
22 of Solo World in settlement discussions would be productive. The parties agreed that in order to  
23 have meaningful settlement discussions, Solo World would first need to conduct some discovery.  
24 This Joint Motion followed.

25                   The *Pioneer* factors support a finding of excusable neglect due to filing this Motion after  
26 the close of discovery. The first factor, the danger of prejudice to any party, weighs in favor of  
27 finding excusable neglect. The parties jointly agree discovery should be reopened, thus there is no  
28

1 prejudice to any party. Second, the length of delay of one-hundred twenty (120) days is relatively  
2 short considering this would just be the third extension of discovery, and the extension is  
3 narrowly tailored to allow a newly added party sufficient time to prepare a defense. The third  
4 *Pioneer* factor—the reason for delay—supports a finding of excusable neglect as the parties had  
5 hoped to resolve the case globally and obviate the need for any extension. The fourth factor,  
6 whether the movant acted in good faith, is likewise present. The parties jointly move to reopen the  
7 discovery deadlines, and each agree they have done so in a good faith attempt to permit a newly-  
8 added party to conduct discovery.

9 **D. An Extension of Discovery is Warranted**

10     1. The Discovery Completed to Date

- 11         a. Plaintiff's Initial Rule 26 Disclosures on October 6, 2022;
- 12         b. Defendant DYM's Initial Rule 26 Disclosures on November 4, 2022;
- 13         c. Plaintiff's First Requests for Production to Defendant DYM on December 16,  
               2022, and Defendant DYM's Responses on March 8, 2023;
- 14         d. Plaintiff's Second Requests for Production to Defendant DYM on March 3,  
               2023, and Defendant DYM's Responses on April 10, 2023;
- 15         e. Plaintiff's Interrogatories to Defendant on April 11, 2023, and Defendant  
               DYM's Responses on April 19, 2023;
- 16         f. Plaintiff's Requests for Admissions to Defendant DYM on April 11, 2023, and  
               Defendant DYM's Responses on May 10, 2023;
- 17         g. Plaintiff's Third Requests for Production to Defendant DYM on October 25,  
               2023, and Defendant DYM's Responses;
- 18         h. Plaintiff took the deposition of Defendant DYM's FRCP 30(b)(6) witness  
               Michael Woods.
- 19         i. Plaintiff's disclosure of expert witnesses.
- 20         j. Defendant noticed Plaintiff's deposition for the last day of discovery, however  
               it did not go forward.

1                   2. The Discovery Remaining to be Completed

2                   Since Defendant Solo World is new to the case, it will produce its FRCP 26 disclosures,  
 3 written discovery to Plaintiff and Defendant DYM, subpoenas as needed, depositions as needed,  
 4 and disclosure of experts.

5                   Defendant DYM will complete the deposition of Plaintiff, which was originally scheduled  
 6 for the last day of discovery yet did not go forward, and may propound written discovery on Solo  
 7 World.

8                   Plaintiff anticipates propounding written discovery on Defendant Solo World, and taking  
 9 the deposition of its FRCP 30(b)(6) witness as well as pertinent fact witnesses and expert  
 10 witnesses, who are yet to be identified.

11                  3. The Reasons Remaining Discovery Remains to be Completed

12                  Defendant Solo World has yet to conduct any discovery, nor have the other parties  
 13 conducted discovery into Defendant Solo World, because it appeared in the case the day before  
 14 the discovery deadline expired. This is due to the deadlines continuing to run while Plaintiff's  
 15 Motion to Amend was pending, as well as while service of process was pending.

16                  Defendant DYM was unable to take the deposition of Plaintiff as noticed due to Plaintiff's  
 17 counsel's calendaring error, which caused the need for the deposition to be rescheduled. Since it  
 18 was originally set for the date the discovery deadline expired, absent an extension, it would  
 19 necessarily have to have been taken outside of the discovery period.

20                  4. The Parties' Proposed Discovery Schedule

21                  The parties propose the following discovery schedule:

Event	Current Deadline	Proposed New Deadline
Add Parties/Amend Pleadings	Passed	Passed
Initial Expert Disclosures	Passed	7/19/24 for Defendant Solo World
Rebuttal Expert Disclosures	Passed	8/19/2024
Close of Discovery	Passed	9/17/2024

1 Dispositive Motions	Passed	10/17/2024
2 Joint Pretrial Order	5/22/2024	11/18/24

4           **III. CONCLUSION**

5           For the foregoing reasons, the parties respectfully request the Court reopen discovery for  
 6 one-hundred twenty (120) days, and continue the remaining case deadlines accordingly.

7           Respectfully submitted by:

8           **MAINOR ELLIS, LLP**

9           */s/ Adam Ellis*

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23          IT IS THEREFORE ORDERED that the parties' stipulation to reopen discovery (ECF No.  
 24          37) is GRANTED.



25  
 26          DANIEL J. ALBREGTS  
 27          UNITED STATES MAGISTRATE JUDGE

28          DATED: June 3, 2024